
Appeal Decision

Site visit made on 23 March 2017

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 April 2017

Appeal Ref: APP/P1940/D/17/3167936
37 Lewes Way, Croxley Green WD3 3SW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Hamer against the decision of Three Rivers District Council.
 - The application Ref:16/2091/FUL dated 4 October 2016, was refused by notice dated 7 December 2016.
 - The development proposed is 1st floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for 1st floor rear extension at 37 Lewes Way, Croxley Green WD3 3SW in accordance with the terms of the application, Ref: 16/2091/FUL dated 4 October 2016 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 37LW/P200 B.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Notwithstanding condition 2, before the first occupation of the extension hereby permitted, the new bedroom window to the first floor flank window facing No 35 Lewes Way shall be:
 - a) fitted with obscure glass up to 1.7m above the floor level of the room in which the window is installed, and
 - b) except as may be required for emergency access, no part of that window that is less than 1.7m above the floor level of the room in which the window is installed shall be capable of being opened.
 - 5) Notwithstanding condition 2, the rooflights hereby permitted within the side and rear roof slopes shall be positioned at a minimum internal cill height of 1.7m above the internal floor level.
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- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification, no windows or dormer windows or other openings (other than those expressly authorised by this permission) shall be constructed in the flank elevations or roof slopes of the extension hereby permitted.

Main Issues

2. The main issues in this appeal are:

- a) the effect of the proposal on the living conditions of the neighbours at No 35 Lewes Way and No 32 Scarborough Drive, with particular regard to overlooking and loss of privacy, loss of light and loss of outlook.
- b) the effect of the proposal on the character and appearance of the existing dwelling and of the local area.

Reasons

Issue a) Living Conditions

3. The appeal property is a detached dwelling on the southern side and at the western end of Lewes Way, a no-through road and within a predominantly residential area, with a mix of detached and semi-detached dwellings and single storey properties. To the west is more recent residential development.
4. The property has been previously extended, including with a single storey extension at the rear under a hipped roof. The proposal seeks to add a first floor addition under a hipped roof over this rear extension. The adjoining property at No 35 has a single storey extension at the rear. I understand that the permission granted at No 35 was for a two storey extension, which the Appellant contends could still be undertaken, as the permission has been implemented. However, there is no information before me to confirm that view or to indicate that the neighbours are intending to undertake such a development. I have therefore considered the position as it currently exists.
5. I have noted the detailed criteria at Appendix 2 of the Council's adopted Development Management Policies Local Development Document 2013 (DM Policies) that development should not intrude into a 45 degree splay line drawn across the rear garden at a point on the common boundary, level with the rear wall of the adjacent property. In this case and taking into account the single storey extension at the neighbouring property and the siting of windows in the rear elevation at first floor of the neighbouring property together with the distance between the properties, I am satisfied that the extension would not be overbearing for the neighbours in terms of their outlook from windows at the rear of the property, particularly at first floor level, or from within the rear garden.
6. I have no detailed information before me regarding the Council's concerns in respect of loss of light, which has also been raised by the neighbour at No 35. However, given the relationship between the two properties and the siting of the windows in the rear elevation of the neighbouring property, I do not consider that any impact on light to those windows would materially harm their living conditions and would justify withholding planning permission.

7. As a result of the first floor addition, one of the existing bedrooms in the appeal property would no longer have a window facing towards the rear and the proposals include for a side window, facing towards the adjoining property at No 35. The immediate outlook would be towards the neighbours' bathroom window which has obscure glazing. Views towards the rear garden would be limited and at an oblique angle and partly interrupted by the single storey extension at No 35. Views towards the other windows on the side elevation would be partly restricted by the existing side extension at the appeal property and furthermore, do not appear to serve or be the sole window to a habitable room, or are obscure glazed.
8. However, and to address the direct relationship between the neighbours' existing windows and the proposed window and the concerns of the Council and the neighbours, I consider that it would be reasonable and appropriate to impose a condition to restrict clear glazing and openings to above 1.7 m above the internal floor level for that proposed window. The Council has proposed a condition requiring the whole window to be obscure glazed but in order to secure a balance to protect the living conditions of both the neighbours and the residents at the appeal property I consider that the condition I am proposing would be appropriate. Whilst I agree that, in accordance with the detailed criteria in Appendix 2 of the DM Policies, windows to habitable rooms at first floor level should not generally be located on flank elevations, in the particular circumstances of this case and given the relationship with the neighbouring property and subject to the condition proposed, I do not consider that it would result in any material harm to the neighbours' living conditions.
9. The proposed rooflights would appear to be primarily for additional light and would not harm the living conditions of the neighbours, with particular regard to overlooking and loss of privacy, subject to the imposition of a condition regarding the minimum cill height.
10. No 32 Scarborough Drive is set to the west and set back from the appeal property, at an angle with a flank brick wall facing towards the appeal site. The windows at the rear of the proposed two storey extension would primarily offer views directly to the rear, although I accept that some oblique views are also provided. This also reflects the current position and is commonly found in similar residential areas.
11. Given the distance between the two properties, I do not consider that there would be any material impact on the rear amenity space of No 32 in terms of overlooking and loss of privacy. I have noted that Appendix 2 of the DM Policies advises against the introduction of balconies which overlook neighbouring properties to any degree. However, given my finding above and the form of the balcony proposed, I am satisfied that there would be no conflict with this detailed criterion. I also do not consider that it would lead to any additional overlooking or loss of privacy for the neighbours at No 35 with respect to their rear garden area.
12. I am therefore satisfied that, subject to the imposition of conditions as proposed, there would be no material harm to the living conditions of the neighbours at either No 35 Lewes Way or No 32 Scarborough Drive, with particular regard to overlooking and loss of privacy, loss of light and loss of outlook. There would be no conflict with Policy CP12 of the Council's adopted

Core Strategy 2011 (Core Strategy) and Policy DM1 of the DM Policies as well as the National Planning Policy Framework (Framework), all of which seek for development to respect the amenities of current and future occupiers.

13. I have noted that the proposal would not comply in a number of respects with the detailed criteria in Appendix 2 of the DM Policies. However, the introduction to Appendix 2 specifically states that there may be situations where proposals comply with the guidance but still may not be considered acceptable as well as certain developments which may not comply with all guidance but are considered acceptable and that all applications will be considered and determined on their own merits. In the particular circumstances of this case I have found that the proposal would be acceptable and would not harm the living conditions of the neighbours, and that there would therefore be justification for an exception to be made to the relevant detailed criteria.

Issue b) Character and Appearance

14. The proposed rear extension would inevitably increase the bulk and massing of the existing property at the rear. However, I consider it would relate well to the existing form of the property and would be set in from both side boundaries. The hipped roof would follow the height and form of the existing main roof and I consider that this approach would respect the character and appearance of the dwelling and provide a uniform appearance to the roof across the extended property. There is a varied building line at the rear along Lewes Way and the depth of development over two storeys would not be out of step with this general building line. Given the size of the plot in terms of both depth and width, I am satisfied that the development would not appear as an overdevelopment of its plot. I therefore consider that the proposal would respect the character and appearance of the existing dwelling.
15. There would be very limited opportunities to view the proposed development in the street scene. Given my conclusion above, I do not consider that the proposal would appear visually discordant or over dominant in those street scene views where an oblique view can be gained. The fenestration patterns to the individual dwellings is not identical and on a rear elevation I do not consider that the proposed Juliet balcony would appear visually intrusive or detract from the pattern of built form in the immediate vicinity.
16. I am therefore satisfied that the proposed development would respect the character and appearance of the existing dwelling and of the local area. There would be no conflict with Policies CP1 and CP12 of the Core Strategy and Policy DM1 of the DM Policies as well as the Framework, all of which seek a high quality of design which respects the local context. The proposals would not accord with all the detailed criteria in Appendix 2 of the DM Policies. However, in the particular circumstances of this case and taking account of the local context I do not consider that there would, on its own, be a planning justification to withhold permission.

Conditions and Conclusion

17. In terms of conditions, matching materials with the existing dwelling are required in the interests of protecting the character and appearance of the existing property and of the local area. I shall also add a condition to list the approved plan for the avoidance of doubt and in the interests of proper

planning. I have already set out conditions to be imposed in respect of the new window on the flank elevation and the rooflights to protect the amenities of the neighbours and for the same reason I agree with the Council that a condition should be imposed to control any further openings in the side elevations.

18. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR